

## DECLARATION FOR NON-PROVISIONAL PATENT APPLICATION\*

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below at 201 et seq. beneath my name.

I believe I am the original, first and sole inventor if only one name is listed at 201 below, or an original, first and joint inventor if plural names are listed at 201 et seq. below, of the subject matter which is claimed and for which a patent is sought on the invention entitled

**BONE IMPLANT, IN PARTICULAR, AN INTER-VERTEBRAL IMPLANT**

and for which a patent application:

was filed in the United States on July 30, 2003 as Application No. 10/629,694 (for declaration not accompanying application)  
with amendment(s) filed on (if applicable)

was filed as International Patent Application No. PCT/CH01/00069 on January 30, 2001.

I hereby state that I have reviewed and understand the contents of the above identified application, including the claims, as amended by any amendment referred to above

I acknowledge the duty to disclose information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, §119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED PRIOR TO THE FILING DATE OF THE APPLICATION				
APPLICATION NUMBER	COUNTRY	DATE OF FILING (day, month, year)	PRIORITY CLAIMED	
			YES <input type="checkbox"/>	NO <input type="checkbox"/>
			YES <input type="checkbox"/>	NO <input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, §119(e) of any United States provisional application(s) listed below.

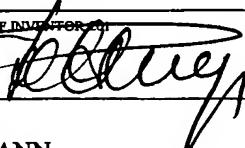
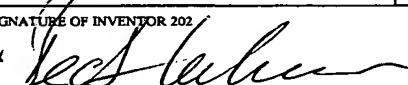
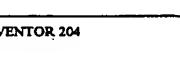
PROVISIONAL APPLICATION NUMBER	FILING DATE

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code §112, I acknowledge the duty to disclose information known to me which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application:

NON-PROVISIONAL APPLICATION SERIAL NO.	FILING DATE	STATUS		
		PATENTED	PENDING	ABANDONED
PCT/CH01/00069	January 30, 2001		X	

\* for use only when the application is assigned to a company, partnership or other organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

2 0 1	FULL NAME OF INVENTOR	LAST NAME MATHYS, Jr.	FIRST NAME Robert	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY Bettlach	STATE OR FOREIGN COUNTRY Switzerland	COUNTRY OF CITIZENSHIP Switzerland	
	POST OFFICE ADDRESS	STREET Chrüzliacherstrasse 11	CITY Bettlach	STATE OR COUNTRY Switzerland	ZIP CODE CH-2544
		SIGNATURE OF INVENTOR 201 x 			DATE November 24, 2003
2 0 2	FULL NAME OF INVENTOR	LAST NAME LECHMANN	FIRST NAME Beat	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY Bettlach	STATE OR FOREIGN COUNTRY Switzerland	COUNTRY OF CITIZENSHIP Switzerland	
	POST OFFICE ADDRESS	STREET Grenchenstrasse 29A	CITY Bettlach	STATE OR COUNTRY Switzerland	ZIP CODE CH-2544
		SIGNATURE OF INVENTOR 202 x 			DATE November 24, 2003
2 0 3	FULL NAME OF INVENTOR	LAST NAME GASSER	FIRST NAME Beat	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY Ittigen	STATE OR FOREIGN COUNTRY Switzerland	COUNTRY OF CITIZENSHIP Switzerland	
	POST OFFICE ADDRESS	STREET Jurastrasse 27	CITY Ittigen	STATE OR COUNTRY Switzerland	ZIP CODE CH-3063
		SIGNATURE OF INVENTOR 203 x 			DATE November 24, 2003
2 0 4	FULL NAME OF INVENTOR	LAST NAME 	FIRST NAME	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY	ZIP CODE
		SIGNATURE OF INVENTOR 204 			DATE
2 0 5	FULL NAME OF INVENTOR	LAST NAME	FIRST NAME	MIDDLE NAME	
	RESIDENCE & CITIZENSHIP	CITY	STATE OR FOREIGN COUNTRY	COUNTRY OF CITIZENSHIP	
	POST OFFICE ADDRESS	STREET	CITY	STATE OR COUNTRY	ZIP CODE
		SIGNATURE OF INVENTOR 205 			DATE

POWER OF ATTORNEY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Robert MATHYS, Jr. et al.

Confirmation No.: 6547

Serial No.: 10/629,694

Art Unit: 3738

Filed: July 30, 2003

Examiner: To be assigned

BONE IMPLANT, IN PARTICULAR, AN  
INTER-VERTEBRAL IMPLANT

Attorney Docket No.: 8932-736-999

**POWER OF ATTORNEY BY ASSIGNEE  
AND EXCLUSION OF INVENTOR(S) UNDER 37 C.F.R. 3.71  
WITH STATEMENT UNDER 37 C.F.R. 3.73(b)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned assignee of the entire interest in the above-identified subject application hereby appoints Berj A. Terzian (Reg. No. 20060), David Weild, III (Reg. No. 21094), Barry D. Rein (Reg. No. 22411), Philip T. Shannon (Reg. No. 24278), Francis E. Morris (Reg. No. 24615), Gidon D. Stern (Reg. No. 27469), John J. Lauter, Jr. (Reg. No. 27814), Brian M. Poissant (Reg. No. 28462), Rory J. Radding (Reg. No. 28749), Donald J. Goodell (Reg. No. 19766), Thomas E. Friebel (Reg. No. 29258), Laura A. Coruzzi (Reg. No. 30742), Geraldine F. Baldwin (Reg. No. 31232), Victor N. Balancia (Reg. No. 31231), Samuel B. Abrams (Reg. No. 30605), Adriane M. Antler (Reg. No. 32605), Thomas G. Rowan (Reg. No. 34419), James G. Markey (Reg. No. 31636), Thomas D. Kohler (Reg. No. 32797), Scott D. Stimpson (Reg. No. 33607), Gary S. Williams (Reg. No. 31066), Ann L. Gisolfi (Reg. No. 31956), Kelly D. Talcott (Reg. No. 39582), Francis D. Cerrito (Reg. No. 38100), Anthony M. Insogna (Reg. No. 35203), Brian M. Rothery (Reg. No. 35340), Brian D. Siff (Reg. No. 35679), Michael J. Lyons (Reg. No. 37386), Nikolaos C. George (Reg. No. 39201), Stephen S. Rabinowitz (Reg. No. 40286), Ognjan V. Shentov (Reg. No. 38051), Kenneth L. Stein (Reg. No. 38704), Andrew J. Gray (Reg. No. 41796), Henry C. Lebowitz (Reg. No. 36196), Leo Merken (Reg. No. 41192), Margaret B. Brivanlou (Reg. No. 40922), David R. Owens (Reg. No. 40756), Matthew E. Langer (Reg. No. 36343), Karen G. Horowitz (Reg. No. 35199), T. Christopher Tsang (Reg. No. 40258), Carl P. Bretscher (Reg. No. 41635) and Laurie A. Axford (Reg. No. 35053), all of Pennie & Edmonds LLP, whose addresses are 1155 Avenue of the Americas, New York, New York 10036, 1667 K Street N.W., Washington, DC 20006, 3300 Hillview Avenue, Palo Alto, CA 94304 and 12750 High Bluff Drive, San Diego, CA 92130, all of Pennie & Edmonds LLP as its attorneys to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith, said appointment to be to the exclusion of the inventors and their attorney(s) in accordance with the provisions of 37 C.F.R. 3.71, provided that, if any one of these attorneys ceases being affiliated with the law firm of Pennie & Edmonds LLP as partner, counsel, or employee, then the appointment of that attorney and all powers derived therefrom shall terminate on the date such attorney ceases being so affiliated.

Please direct all correspondence for this application to customer no. 20582.

**Statement Under 37 C.F.R. 3.73(b)**

Synthes (USA) states that it is the assignee of the entire right, title, and interest in the patent application/patent identified above by virtue of an assignment from the inventor(s) of the patent application/patent identified above. The assignment is submitted concurrently herewith for recording.

A copy of the Assignment is attached hereto.

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

**ASSIGNEE: Synthes (USA)**

Date: <u>13 Nov 2003</u>	Signature: <u>Jessie B. Hill</u>
	Typed Name: <u>Jessie B. Hill</u>
	Position>Title: <u>Director of Legal Affairs</u>
	Address: <u>1690 Russell Road</u>
	<u>Paoli, Pennsylvania 19301</u>

**COPY**

JOINT

**ASSIGNMENT**

WHEREAS, WE,

**Robert MATHYS, Jr.**, a citizen of Switzerland, residing at Chrüzliacherstrasse 11, CH-2544, Bettlach, Switzerland;

**Beat LECHMANN**, a citizen of Switzerland, residing at Grenchenstrasse 29A, CH-2544, Bettlach, Switzerland; and

**Beat GASSER**, a citizen of Switzerland, residing at Jurastrasse 27, CH-3063, Ittigen, Switzerland

ASSIGNORS, are the inventors of the invention:

**BONE IMPLANT, IN PARTICULAR, AN INTER-VERTEBRAL IMPLANT**

for which we have executed an application for a Patent of the United States:

- which is identified by Pennie & Edmonds LLP docket no. 8932-736-999
- which was filed on July 30, 2003 as Application No. 10/629,694

and WHEREAS, **SYNTHES AG CHUR**, ASSIGNEE, having a registered office and place of business at: Grabenstrasse 15, CH-7002 Chur, Switzerland, is desirous of obtaining the entire right, title and interest in, to and under the said invention and the said application in all geographic locations except the United States and its possessions and territories, Canada and its possessions and territories, the Bahamas, and Bermuda, (hereinafter "the excluded geographic locations")

AND WHEREAS, **SYNTHES (USA)**, ASSIGNEE, a General Partnership existing under the laws of the Commonwealth of Pennsylvania and having a place of business at 1690 Russell Road, Paoli, PA 19301, is desirous of obtaining our entire right, title and interest in, to and under the said invention and the said application in the excluded geographic locations:

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) to us in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said ASSIGNORS, have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, our entire right, title and interest in, to and under the said invention, and the said United States application and all divisions, renewals and continuations thereof, and all Patents of the United States which may be granted thereon and all reissues and extensions thereof; and all applications for industrial property protection, including, without limitation, all applications for patents, utility models, and designs which may hereafter be filed for said invention in any country or countries foreign to the United States, together with the right to file such applications and the right to claim for the same the priority rights derived from said United States application under the Patent Laws of the United States, the International Convention for the Protection of Industrial Property, or any other international agreement or the domestic laws of the country in which any such application is filed, as may be applicable; and all forms of industrial property protection, including, without limitation, patents, utility models, inventors' certificates and designs which may be granted for said invention in any country or countries foreign to the United States and all extensions, renewals and reissues thereof;

AND WE HEREBY authorize and request the Commissioner of Patents and Trademarks of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents or other evidence or forms of industrial property protection on applications as aforesaid, to issue the same to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we have full right to convey the entire interest herein assigned, and that we have not executed, and will not execute, any agreement in conflict herewith.

AND WE HEREBY further covenant and agree that we will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to us respecting said invention, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing, reissue and foreign applications, make all rightful oaths, and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper protection for said invention in all countries.

IN TESTIMONY WHEREOF, We hereunto set our hands and seals the day and year set opposite our respective signatures.

Date 24.11.03, 2003

  
x Robert MATHYS, Jr. L.S.  
Witness (signature)

Date 24.11.03, 2003

  
x Beat LECHMANN L.S.  
Witness (signature)  
Isabelle Annenheim  
Typed Name of Witness

Date Nov. 24<sup>th</sup>, 2003

  
x Beat GASSER L.S.  
Witness (signature)  
Daniel Baumgartner  
Typed Name of Witness